THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 14206 OF 2006

ORAL ORDER:

The present writ petition is filed questioning the award of the Labour Court, Guntur in I.D. No. 192 of 2003 dated 4.5.2005 insofar as denying the relief of continuity of service, backwages and other attendant benefits is concerned.

The petitioner herein is working as driver in the respondent corporation. While so, he was issued with a charge sheet dated 11.10.2002 alleging unauthorised transportation of two bags from Bangalore to Machilipatnam containing rejected rold-gold ornaments and an amount of Rs.3,49,540/- while operating the vehicle bearing No. AP 11Z 883. The petitioner submitted his explanation denying the charges. However, having not satisfied with the explanation offered by the petitioner, an inquiry was conducted and based upon the inquiry report, a show cause notice of removal from service dated 1.4.2003 was issued to the petitioner. Ultimately, he was removed from service by order dated 2919.4.2003. Aggrieved by the removal order, petitioner raised an Industrial Dispute in I.D. No. 192 of 2003 on the file of the Labour Court, Guntur.

The Labour Court on consideration of the matter, held that the charge alleged against the petitioner is proved but the punishment of removal from service is not proportionate to the charge and passed the award dated 4.5.2005 partly allowing the petition directing the respondent corporation to reinstate the petitioner into service, without backwages and without continuity of service. The Labour Court further held that the petitioner is not entitled to any monetary benefit from the date of removal till the date of order. Questioning the said award

insofar as not granting the continuity of service and backwages, the present writ petition is filed.

Heard learned counsel for petitioner, learned Standing Counsel for respondent corporation and perused the award under challenge.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India are limited to—firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

Until and unless the writ petition shows any disproportionality in imposing the penalty or it shocks the conscious of the Court this Court cannot exercise its discretion or interfere with the quantum of penalty. In **DIVISIONAL CONTROLLER, KSRTC (NWKRTC) Vs. A.T.MANE** [1], the Apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and Courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal.

In the present case, the Labour Court on consideration of the matter held that the charge alleged against the petitioner is proved but the punishment of removal from service is not proportionate to the charge and passed an award directing reinstatement without backwages and without continuity of service. The petitioner in his explanation has accepted the fact that he has handed over the key of the bag to the checking officials. The Labour Court held that carrying

the goods of others while performing the duty without permission is certainly a misconduct and the workmen are not expected to use the vehicle for carrying the valuable things. Based on the evidence on record the Labour Court held that the misconduct alleged against the petitioner is proved and the punishment imposed for the said proved misconduct is not proportionate and in its discretion thought it fit to impose the punishment of denial of backwages and continuity of service and ordered for reinstatement into service. Hence, the award of the Labour Court needs no interference and it does not fall within the parameters of judicial review of this Court.

For the foregoing reasons, the petitioner has not made out any case for interference of this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The writ petition fails and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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N.V.RAMANA,J

Date: .08.2006

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THE HON'BLE SRI JUSTICE N.V.RAMANA

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WRIT PETITION NO. 14206 OF 2006

Date: -**August, 2006**

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[1] 2005 (3) SCC 254